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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: DA VINCI SURGICAL ROBOT  
ANTITRUST LITIGATION

Lead Case No.: 3:21-cv-03825-VC

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

Judge: The Honorable Vince Chhabria

SURGICAL INSTRUMENT SERVICE  
COMPANY, INC.,

Case No. 3:21-cv-03496-VC

Plaintiff,

vs.

INTUITIVE SURGICAL, INC.,

Judge: The Honorable Vince Chhabria

Defendant.

**JOINT STIPULATION AND [PROPOSED] ORDER TO MODIFY SUMMARY  
JUDGMENT BRIEFING SCHEDULE**

WHEREAS, the Court entered a case schedule for the above-captioned actions on August 23, 2021, and a modified case schedule on April 14, 2022, which, among other deadlines, requires motions for summary judgment to be filed by March 23, 2023, oppositions thereto filed by April 20, 2023, and replies by May 11, 2023. *See ECF 90 in 3:21-cv-03496;*

WHEREAS, the named plaintiffs in *In re: da Vinci Surgical Antitrust Litigation* and Surgical Instrument Service Company, Inc. (collectively, “Plaintiffs”) have indicated that they intend to file motions for summary judgment in their respective cases;

WHEREAS, Intuitive intends to file motions for summary judgment in both cases;

WHEREAS, in the event of cross-motions for summary judgment, paragraph 44 of the Court’s Standing Order for Civil Cases requires the parties to file a total of four briefs sequentially and complete all briefing no later than 14 days before the June 8 hearing before the Court on the motions for summary judgment;

WHEREAS, Plaintiffs and Intuitive have agreed, subject to the Court’s approval, to the following briefing schedule for motions for summary judgment:

<b>Event</b>	<b>Proposed Date<sup>1</sup></b>
Plaintiffs’ Opening Summary Judgment Briefs	March 23, 2023
Defendant’s Opening/Opposition Briefs	April 13, 2023
Plaintiffs’ Opposition/Reply Briefs	May 4, 2023
Defendant’s Reply Brief	May 25, 2023

WHEREAS, the parties have further agreed that, in the event Plaintiffs elect not to move for summary judgment, Defendant’s Opening briefs on its motions shall still be due April 13, 2023, and the Opposition and Reply briefs shall be due on the dates set forth above.

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<sup>1</sup> These dates do not extend the Court’s April 14, 2022 modified case schedule order (Doc No. 88). In fact, the latter 3 entries shorten the existing briefing schedule.

WHEREAS, the schedule for *Daubert* motions will not be affected by the requested change to the briefing schedule, with such motions filed and briefed on the existing schedule: March 23, 2023 for motions, April 20, 2023 for oppositions, and May 11, 2023 for replies. *See* ECF 90 in 3:21-cv-03496;

NOW THEREFORE, Plaintiffs and Intuitive respectfully request that the Court enter the proposed briefing schedule set forth in the attached Proposed Order.,

DATED: February 16, 2023

COVINGTON & BURLING LLP

By: /s/ Jeffrey Corrigan

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**[PROPOSED] ORDER**

**It is hereby ordered** that the briefing schedule for summary judgment motions shall be modified as reflected below, in the event Plaintiffs move for summary judgment:

<b>Event</b>	<b>Proposed Date</b>
Plaintiffs' Opening Summary Judgment Briefs	March 23, 2023
Defendants' Opening/Opposition Briefs	April 13, 2023
Plaintiffs' Opposition/Reply Briefs	May 4, 2023
Defendants' Reply Brief	May 25, 2023

**It is hereby ordered** that the briefing schedule for summary judgment motions shall be modified, as reflected below, in the event Plaintiffs do not move for summary judgment:

<b>Event</b>	<b>Proposed Date</b>
Defendants' Opening Briefs	April 13, 2023
Plaintiffs' Opposition Briefs	May 4, 2023
Defendants' Reply Briefs	May 25, 2023

**It is so ordered:**

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Hon. Vince Chhabria  
United States District Court Judge

**FILER'S ATTESTATION**

I, Kathryn E. Cahoy, am the ECF User whose ID and password are being used to file this document. I hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1(h)(3), that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: February 16, 2023

/s/ Kathryn E. Cahoy

Kathryn E. Cahoy